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# Illegal, Undocumented or Unauthorized

A Few Reflections on Unauthorized Population in the United States

The United States of America is a country that has been one of the most desired destinations for immigrants since its creation. This popular belief has been proved by researchers many times. In 2010, Gallup (an American research-based company) published one of its migration findings. According to the numbers presented, 700 million adults worldwide would like to move to another country if they had such opportunity. Among them, there were more than 165 million who would choose the USA as their destination. Gallup's findings reveal only the desires of potential immigrants. Otherwise, if all these people had done as they wished, the US could have experienced a net population growth of 60% (Clifton). On the other hand, data show how deeply the myth of the American dream is rooted worldwide. This optimistic vision makes immigrants believe that once they cross the US border, they can live their American dream. Such popular belief causes a constant growth of the number of those who decide even to break US law and start their illegal stay in America.

After many years of huge immigrant inflow to the United States, in 2015, American researchers revealed that the number of unauthorized immigrants in the US has become stable. However, the new findings did not change the direction of public discourse on immigration in the US. Immigration policy usually attracts the attention of public opinion when Americans feel under threat. Such a situation occurred after the 9/11 terrorist attacks in 2001, and the Tsarnaevs' bombing during the Boston

Marathon in 2013 or the most recent (at the time when this article was written) shootings in San Bernardino, California. Such tragedies lead to more questions on national security, which is inextricably connected with immigration, both legal and illegal.

In November 2014, the immigration issue again became a focal point of the political debate, when president Barack Obama announced his executive order. He proposed a program expanding deportation relief to an impressive number (about 5 million) of the unauthorized immigrant population living in the US (Office of the Press Secretary, the White House). Although President Obama's project is on hold<sup>1</sup>, as a result of a court challenge brought about by several states (Hereskovitz), presidential action has been considered the most significant step in improving the situation of illegal immigrants since Reagan's amnesty in 1986. Moreover, the refugee crisis in Europe and Obama's plan to admit 85,000 foreign refugees in the fiscal year 2016 strengthened the debate on immigration, especially in the time of the forthcoming presidential elections.

The main purpose of this article is to show some issues connected with unauthorized immigrants' presence in the US and to present the basic, but also the most recent, trends in illegal immigration. The article also focuses on differences between words or phrases used to describe the unauthorized immigrant population.<sup>2</sup> It also discusses who crosses the border illegally, and how. The constant inflow of strangers has influenced every aspect of American life, but Americans are rather consistent in their opinion on immigration and immigrants. Their anti-immigrant feelings are affected most often by accidental tragedies and their anti-immigrant anger grows in the immediate aftermath of such events, but some time later their attitudes towards immigration go back to previous levels. Such a situation occurred after one of the biggest tragedies in American history, the World Trade Center terrorist attack in 2001. Shortly after the attack, Americans were more likely to say they had a negative opinion

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<sup>1</sup> As of 16 Jan. 2016.

<sup>2</sup> It is easy to be misunderstood while using terms describing the population living in the USA without permission. This article does not intend to support or criticize any usage. As the dispute over labeling immigrants is not finished and there is no clear and convincing way of using neutral terms, I will use the term "unauthorized immigrant".

on immigrants. But after a few years, their attitude towards immigrants resembled that before the attacks (Suro).

Since the second part of the 20<sup>th</sup> century, the term “political correctness” has gained more attention in public discourse. It appeared that choosing the right word had become a very important issue. By using “politically incorrect” language one was put at a risk of being accused of xenophobia, racism, or other similarly offensive attitudes. Political correctness also changed the world of words and phrases used to describe those who were staying in the US illegally. Since then, the term “illegal immigrant” became a wrong one, implying a negative attitude toward a huge group of people and considered to be incorrect as only an action can be “illegal”, not a person. Such point of view was favored by pro-immigrant organizations. They shared the idea with social media like Facebook, Twitter, YouTube, etc., but also asked traditional media not to refer to people as “illegal” in their articles and videos. This campaign was named “Drop the I-Word” and was launched in 2010. It resulted in a partial success. The Center for Racial Justice Innovation and the Applied Research Center, responsible for the campaign, concluded: “although the Associated Press, USA Today, LA Times, and many other news outlets and journalist associations have dropped the i-word, this racial slur is still being used in the media and everyday language” ([www.raceforward.org](http://www.raceforward.org)). The idea was widely discussed, as many immigration supporters did not agree with it. Mark Krikorian, the executive director of the Center for Immigration Studies, agreed that the term “illegal immigrant” was not accurate. In his opinion, it was not precise to refer to a foreigner staying unlawfully in the US as an “illegal immigrant”, although it was still acceptable in common usage. The definition of the term “immigrant”, in American law, says that an immigrant is a person who has been granted lawful permanent residence (Leitsinger 2012). Discussing Krikorian’s explanation, it is necessary to look more carefully into American law. The Department of Homeland Security (DHS) revealed the official position on the definition problems and stated as follows:

Permanent Resident Alien – An alien admitted to the United States as a lawful permanent resident. Permanent residents are also commonly referred to as immigrants; however, the Immigration and Nationality Act

(INA) broadly defines an immigrant as any alien in the United States, except one legally admitted under specific nonimmigrant categories (INA section 101(a)(15)). An illegal alien who entered the United States without inspection, for example, would be strictly defined as an immigrant under the INA but is not a permanent resident alien. Lawful permanent residents are legally accorded the privilege of residing permanently in the United States. They may be issued immigrant visas by the Department of State overseas or adjusted to permanent resident status by the Department of Homeland Security in the United States. ([www.dhs.gov](http://www.dhs.gov))

Kevin R. Johnson, the dean of the UC Davis School of Law, emphasizes that such commonly used terms as “illegal immigrant” or “illegal alien” can be found nowhere in American federal law. Moreover, they equate an unauthorized immigrant with a criminal, while the person in question may not have committed any crime at all. It also implies that such individual should be punished. He suggests using more neutral terms as “an undocumented alien”. Johnson’s and many other researchers’ point of view is not shared by the media (Davis 50). Journalists from the Associated Press declared using more euphemistic terms such as “living in the country without legal permission”. They argued that a different meaning was implied while using the word “undocumented”. This term suggested that the problem was minor, connected with missing a proper document and needing only simple paperwork to be done. Meanwhile, the situation of “undocumented” people was far more serious. Their everyday life was influenced by the threat of being arrested and deported (Leitsinger 2012). Others also noted that the term “undocumented immigrants” may be misleading as it suggested they had no documents. Aliens residing in the US, even without authorization, possessed documents such as passports, US driver’s licenses, school IDs, etc. (Golash-Boz). For this reason, the Migration Policy Institute<sup>3</sup> decided to use the term “unauthorized migrant” as the most neutral and complete when referring to people staying in foreign countries without permission. It also did not criminalize immigrants (Van Hook).

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<sup>3</sup> The Migration Policy Institute (MPI) is an independent, non-partisan, non-profit think tank dedicated to the study of the movement of people worldwide.

Hispanics, as the most numerous minority group in the US, have also engaged in the Drop the I-word campaign (Arreola 18). Their share in American society is significant and visible enough to make them an important actor on the American political scene, especially, when in the question of illegal/unauthorized population in the US. According to the DHS' Office of Immigration Statistics in 2014, there were over 11 million undocumented immigrants living in the US. Most of them were of Hispanic origin (Zong and Batalova). When the New York Times refused to join the Drop the I-Word campaign and continued to use the term "illegal immigrant", Univision, an American Spanish language broadcast television network, criticized the decision.<sup>4</sup> Latino activists, in a series of statements, condemned the New York Time's attitude and proved that the newspaper used to allow offensive terms in its pages in the past. Among them, there was the term "wetbacks", considered to be particularly discriminating for Mexican immigrants (Planas). It referred to illegal border crossers who decided to swim across the Rio Grande river. During the debate a surprising fact was revealed. Cesar Chavez, the well-known Latino activist and co-founder of the United Farm Workers union, also used the terms "wetbacks" and "illegals" to describe undocumented workers hired to break strikes.<sup>5</sup> This was proved by an interview recorded in September 25, 1972, in which Cesar Chavez shared his views on American border problems using these controversial words (Lord).

The official language of the American government prefers using the terms "illegal alien" or "illegal immigrant". Sometimes these names become more specific, e.g. "criminal alien" or "fugitive alien", but all of them are also considered by human rights supporters as not accurate, dehumanizing and discriminating.

Looking closer into the debate on labeling aliens, it is clear that Americans have encountered difficulties in their choice of language as a result of political correctness. Although there are many different terms in use,

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<sup>4</sup> Although the New York Times was not the only representative media to state that it was still going to use that term, it was considered a leader in the American media market, and one that set the tone for others.

<sup>5</sup> More on Cesar Chavez and the United Farm Workers Union in: Bartnik 7-21.

it appears that none of them is accurate. These terms have also become a part of the political game. The term “undocumented immigrant” is often used by immigration supporters. Anti-immigrant groups tend to use the term “illegal immigrant”, as it stresses the fact of violation of the existing law. Summarizing arguments against using the term “illegal immigrant”, it is clear that objections are based on two grounds: legal and moral. The legal grounds include (Batra Kashyap) the following:

- the term is legally misleading because it connotes criminality, while presence in the US without proper documents is a civil offense, not a criminal one;
- it is legally inaccurate because it is akin to calling a criminal defendant “guilty” before a verdict is rendered;
- it is legally imprecise because it implies finality even though immigration status is fluid and, depending on individual circumstances, can be adjusted;
- it is technically inaccurate because it labels the individual as opposed to the actions the person has taken.

The moral grounds include the following reasons:

- the term scapegoats individual immigrants for problems that are largely systemic;
- the term divides and dehumanizes communities and is used to discriminate against people of color;
- the term creates an environment of hate by exploiting racial fear;
- the term affects attitudes toward immigrants and non-immigrants alike, most often toward people of African, Asian, Central American and Mexican descent;
- the term impacts the way young people feel about themselves and their place in the world;
- the term increases the tolerance of the American public for daily violations of human rights;
- the term is a code word for racial and ethnic hatred;
- the term is outdated, offensive, and implicitly carries with it negative connotations.

The most popular explanation of the term “unauthorized immigrant” states that this term refers to a person who resides in the US illegally, but such a definition is not complete. There are, at least, two basic types of “unauthorized immigrants” (Hoefler, Rytina and Baker). First, immigrants who crossed the border without inspection. There are many different ways of entering American territory illegally. Every day and night individuals, as well as organized groups, are trying to clandestinely enter the US, most often at the southern border. Despite all efforts taken by the American administration, immigrants still manage to avoid many of the security measures implemented on the Mexican-American border. The wall built at the border, reinforced by specialized high-tech equipment, does not stop immigrants from crossing. The Border Patrol reports about smugglers tunnels under the fence, catapults used to smuggle drugs, the use of gas blowpipes to cut the fence. Some tunnels are impressive. In 2015, CNN informed about the most recent “super tunnel” found by border agents. The tunnel extended over the length of eight football fields, and had a rail system, lighting, electricity and metal beams to prevent collapse. It was the tenth large-scale smuggling tunnel discovered in the San Diego area alone since 2006. In all, more than 75 cross-border smuggling tunnels were discovered, mostly in California and Arizona (Martinez).

Building a fence along the Mexican-American border is still a controversial issue. It costs a huge amount of money and provides an imperfect security. The issue was raised by Donald Trump, one of the 2016 presidential candidates, who favored the idea of the fence as a barrier that would stop the inflow of foreigners entering the United States illegally (Drew). Thad Bingel, a former senior US Customs and Border Protection official who was involved in border fence-building during the George W. Bush administration, commented on Trump’s propositions: “Every wall can be circumvented. People can go under it, they can go over it. ... No one should go into this with the idea that if you just build the right kind of wall, no one will get through” (Markon).

The second meaning of the term “unauthorized immigrant” refers to the so called “visa overstayers”. These are foreigners who entered the United States with a valid visa, but stayed after its expiration date. Once they stayed longer than they were allowed, they became unauthorized.

The group represents an estimated 40% of the 11 million unauthorized immigrants living in the USA. In 2016, the Department of Homeland Security released its first ever report on “visa overstayers”, a population that was largely unknown (Entry/Exit Overstay Report. Fiscal Year 2015). Previous attempts of counting and describing these immigrants had failed. The data released by the DHS indicate that those who overstayed their visas were only a small part of all foreigners who entered the US legally. Respectively, 482 781 and nearly 45 million in fiscal year 2015 (Gomez). Additional studies described this group in detail. “Visa overstayers” were better educated than those who crossed the border without authorization. They also spoke better English. The findings of the Californian Public Policy Institute revealed that about 55% of them speak English well or very well compared with 39% of those who crossed the border illegally (Murray).

In 2014, there were 11.3 million unauthorized immigrants living in the US. From 2009 to 2014 the number remained rather stable. Since the 1990s, the population of those staying in the US illegally had been continuously rising. In 1990, they numbered 3.5 million and the number peaked in 2007 to 12.2 million. At that point, there was a sudden decrease, generated mostly by diminishing Mexican immigration to the US. In 2012, an estimated 6 million unauthorized Mexican immigrants were residing in America, representing more than half of the total unauthorized population in the US (Bruno). Since 2009, there have been about 100 000 new Mexicans annually entering the country without authorization. However, when the recession began the northern neighbor became less popular as an immigration destination. In 2014, 5.6 million unauthorized immigrants from Mexico resided in the USA, representing 49% of the total unauthorized population (Gonzalez-Barrera and Krogstad).

Analyzing more data on unauthorized immigrants in the United States, it is evident that they replicate migration patterns known from the general characteristics of immigration processes in the US. California, New York, New Jersey, Florida and Nevada are considered the so-called “immigration states” – they have the largest immigrant population in their territory (Krogstad and Keegan). These states are also among the most popular destinations for unauthorized immigrants (Bruno).



Unauthorized immigrants are mostly attracted by work opportunities offered by the American economy. New trends appeared in 2007 that affected immigrant workforce. Data revealed by the Pew Research Center shows that the unauthorized immigrant workforce hold fewer blue-collar jobs and more white-collar ones. Surprisingly, the changing economy did not influence the distribution of unauthorized laborers among different occupational groups. They occupied low skilled service positions (33%), construction and extraction (15%), production, installation and repair (14%) (Passel and Cohn). Overall data differed among states. For example, in southern states the construction industry employed more unauthorized immigrant workers than any other, while manufacturing dominated mostly in the Midwest.

Unauthorized immigrants made up a larger share of the labor force than of the overall population, the Pew Research Center data said. The reason was immigrants' age. The unauthorized population is predominantly a young population, particularly of working age. Most of the population lived with their families; almost half of them were couples with children. In 2008 73% of unauthorized immigrant parents' children were American citizens by birth. The number of children born in the US in mixed-status families (families where one parent is an unauthorized immigrant while the other is an American citizen) has been rising since 2003. Meanwhile, the number of children born in the USA to two unauthorized parents has hardly changed (Passel and Cohn).

In 2015 the Center for Migration Studies released a report stating that the number of unauthorized immigrants in the USA had fallen below 11 million. It is impossible to name one specific reason responsible for this decline. This was rather the effect of many combined reasons. The first of these was a tighter border control. Using modern technology, building the fence and increasing the number of border patrol agents resulted in more effective apprehensions at the border. The situation was also influenced by economic and demographic changes that occurred in Mexico. The data also revealed that the characteristic of a typical immigrant changed. Previously, in most cases it was a young man. Then, according to the data, it was a person who was 35 or older and had lived in the USA for a decade or more (Markon b). Researchers also noticed that restrictive

state immigration laws were not as effective as expected. Despite the new trends and reasons one thing has not changed so far – hundreds of thousands of new unauthorized immigrants continue to settle in the United States every year.

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